

LAW OFFICES OF SUSAN G. KELLMAN

25 EIGHTH AVENUE • BROOKLYN, NEW YORK 11217
(718) 783-8200 • FAX (718) 783-8226 • SGK@KELLMANESQ.COM
FELLOW, AMERICAN COLLEGE OF TRIAL LAWYERS

December 2, 2021

Via ECF and EMAIL

Hon. Allyne R. Ross
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *U.S. v. Melendez-Rojas*
17 Cr. 434 (ARR)

Dear Judge Ross:

I write in response to the government's letter of last evening regarding jail credit for extradited defendants, which includes my client Jose Miguel Melendez Rojas.

In its letter the government explains that this Court has no authority to give an extradited defendant credit for the time he served in custody overseas. Rather, government counsel recites the legislative history regarding the development of this policy, adding:

...the government has conferred with Bureau of Prisons officials and has been advised that, *under certain circumstances*, the Bureau of Prisons awards credit for defendants who were detained in foreign custody prior to entering into the custody of the Attorney General. [Emphasis Added]

This standard, "under certain circumstances" is offered by the government; however, no reference is made as to what circumstances the BOP will utilize to make its determination regarding whether to credit these defendants for the time they spent in custody awaiting extradition to the Eastern District of New York. For Jose Miguel Melendez Rojas, who was arrested in Mexico on these charges on February 11, 2019, produced in the EDNY on August 14, 2019, and has remained at the MDC since that time, there is a six-month period of time which may be credited to him by the BOP, under "certain circumstances."

It is respectfully submitted that without more, the Court should not feel constrained by such an amorphous representation. And, given the horrific

conditions at the MDC generally, and more specifically during the Covid pandemic, that a considerable downward variance is appropriate – particularly in light of the severity of the Guidelines framework specific to this case.

Your Honor's consideration of this request is appreciated.

Respectfully submitted,

Susan G. Kellman

Susan G. Kellman

cc: All counsel

Jose Miguel Melendez Rojas